

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

EQUAL EMPLOYMENT OPPORTUNITY CIVIL ACTION NO. C09-0148-RAJ  
COMMISSION,

Plaintiff,

[PROPOSED] CONSENT DECREE

v.

K1 SPEED, INC.,

Defendant.

I. INTRODUCTION

1. This action originated when Reuben Young filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC" or "Commission"). Mr. Young alleged that K1 Speed, Inc. ("K1 Speed" or "Defendant" or "the Company") discriminated against him based on his disability, in violation of Title I of the Americans with Disabilities Act of 1990 and Title I of the Civil Rights Act of 1991 ("ADA") when Defendant terminated him due to his disability.

2. On August 18, 2008, the EEOC issued a letter of determination with a finding of reasonable cause to believe that K1 Speed violated the ADA on behalf of Mr. Young. Thereafter, EEOC attempted to conciliate the charge and conciliation was unsuccessful.

1           3.     The Commission filed its Complaint on February 2, 2009, in the United States  
2 District Court for the Western District of Washington at Seattle. The Complaint alleges that K1  
3 Speed failed to provide a reasonable accommodation to Mr. Young, discharged him because of  
4 his disability and in retaliation for enforcing his protected rights.

5           4.     The parties want to conclude fully and finally all claims arising out of the EEOC's  
6 Complaint and Mr. Young's charge of discrimination filed with EEOC. The EEOC and K1  
7 Speed enter into this Consent Decree to further the objectives of equal employment opportunity  
8 as set forth in the ADA.

9       II. NON-ADMISSION OF LIABILITY AND NON-DETERMINATION BY THE COURT

10          5.     This Consent Decree is not an adjudication or finding on the merits of this case  
11 and shall not be construed as an admission by K1 Speed of a violation of the ADA.

12                   III. SETTLEMENT SCOPE

13          6.     This Consent Decree is the final and complete resolution of all allegations of  
14 unlawful employment practices contained in Mr. Young's discrimination charge, in the EEOC's  
15 administrative determination, and in the Complaint filed herein, including all claims by the  
16 parties for attorney fees and costs.

17                   IV. MONETARY RELIEF

18          7.     In settlement of this lawsuit, K1 Speed agrees to pay directly to Mr. Young the  
19 amount of \$50,000 within thirty (30) days of the date of entry of this consent decree.

20                   V. INJUNCTIVE AND OTHER RELIEF

21       A.     General Provisions

22          8.     K1 Speed, its officers, agents, managers, assistant managers and other supervisors  
23 and all human resource professionals who provide advice and assistance to the foregoing  
24 individuals are enjoined from engaging in practices which unlawfully discriminate against  
25 applicants and/or employees on the basis of disability or in retaliation for engaging in protected  
26

1 activity. In recognition of its obligations under the ADA, K1 Speed shall institute the policies  
2 and practices set forth below.

3 B. Anti-Discrimination Policies and Procedures

4 9. Defendant shall carry out anti-discrimination policies, procedures and training for  
5 management personnel, supervisors and employees.

6 10. K1 Speed shall draft an equal employment opportunity (“EEO”) policy that  
7 prohibits discrimination against applicants and/or employees on the basis of disability with  
8 respect to any term, condition or privilege of employment, and addresses K1 Speed’s obligation  
9 to provide a work environment free from discrimination and retaliation for its employees. In  
10 addition K1 Speed shall draft a policy regarding procedures for requesting and granting request  
11 for accommodation. Not later than sixty (60) days after entry of this Consent Decree, K1 Speed  
12 shall distribute a written copy of its EEO policies to all its employees, both management and  
13 non-management.

14 C. Equal Employment Opportunity Training

15 11. K1 Speed shall provide an annual, four-hour EEO training seminar to all of its  
16 managers, supervisors, and employees company wide. This anti-discrimination training shall  
17 include, at a minimum, a discussion of federal law prohibiting employment discrimination and  
18 retaliation, including the ADA and a review of K1 Speed’s EEO policies and policies regarding  
19 requests for accommodation. The training shall be aimed at helping attendees understand how to  
20 define and identify employment discrimination, identify acceptable avenues of complaint, and  
21 the appropriate ways to discuss, request, and respond to requests for reasonable  
22 accommodations. Training materials must be submitted to the EEOC in reasonable time ahead  
23 of the training session.

24 12. Not later than sixty (60) days after entry of this Consent Decree, K1 Speed shall  
25 provide the EEO training noted in Paragraph 11 to all of its employees company-wide. Including  
26 principles, higher level management and the owner of the company.

1           14. For the duration of this Consent Decree, K1 Speed shall notify the EEOC of the  
2 completion of the training seminars and shall specify the names and job titles of the managers,  
3 supervisors and employees who participated in and completed the training. This information  
4 shall be provided as part of the annual report K1 Speed submits to the EEOC.

5 D. Non-Disclosure of Information

6           15. K1 Speed shall not disclose any information or make reference to any charge of  
7 discrimination or this lawsuit in responding to requests for information about Mr. Young.

8 E. Policies Designed to Promote Accountability

9           16. K1 Speed agrees that it shall impose discipline, up to and including termination of  
10 employment, upon any supervisor or manager who discriminates against any applicant and/or  
11 employee on the basis of disability, or who retaliates against any person who complains about or  
12 participates in any investigation or proceeding concerning any allegation of discrimination. K1  
13 Speed shall communicate this policy to all of its managers and supervisors.

14           17. K1 Speed agrees that it shall advise all managers and supervisors of their duty to  
15 ensure compliance with anti-discrimination laws and the Company's EEO policy. In conducting  
16 performance reviews, the Company shall hold managers and supervisors accountable for EEO  
17 enforcement and compliance.

18 F. Reporting

19           18. K1 Speed shall agree to report to the EEOC for a period of four (4) years. The  
20 reports shall be in writing and submitted on an annual basis during the four year reporting period.  
21 The reporting period will run from the date of the entry of this Consent Decree by the United  
22 States District Court for the Western District of Washington at Seattle.

23           19. These annual reports shall contain the following information and attachments:

24           a. Certification that K1 Speed has:

- 25                   1. Continued to maintain its written EEO policies and procedures and  
26                   annually distributed copies of its EEO policy to all current and newly  
                    hired employees and as described in Paragraph 10;

2. Complied with the training provisions enumerated in this Consent Decree, as provided in Paragraphs 11-13;
3. Continued to promote policies and procedures to promote EEO accountability by managers and supervisors, as required by Paragraph 16-17.
4. Complied with all other provisions of this Consent Decree.

b. Copies of the following documents shall be included with each annual report submitted to the Seattle office of the EEOC:

1. A copy of the Company's EEO policy and procedures developed and implemented in accordance with the provisions of this Consent Decree;
2. A summary of internal formal or informal discrimination complaints on the basis of disability or retaliation, if any, filed by employees and the resolution of each such complaint;;
3. A sign-in sheet or list of the K1 Speed names and job titles of the managers, supervisors and employees who completed EEO training and the dates the training was conducted during the previous reporting period.

20. If applicable, K1 Speed shall submit a statement with its report to the EEOC specifying the areas of noncompliance, the reason for the noncompliance, and the steps that shall be taken to bring K1 Speed into compliance.

G. Posting

21. K1 Speed shall post a Notice to All Employees. This Notice is attached as Exhibit 1 to this Consent Decree. The Notice shall be posted on a centrally located bulletin board at all K1 Speed facilities for the duration of the Consent Decree.

VI. ENFORCEMENT

22. If the EEOC determines that K1 Speed has not complied with the terms of this Consent Decree, the EEOC shall provide written notification of the alleged breach to K1 Speed. The EEOC shall not petition the Court for enforcement of this Consent Decree for at least twenty (20) days after providing written notification of the alleged breach. The 20-day period following

the written notice shall be used by the EEOC and K1 Speed for good faith efforts to resolve the dispute.

VII. RETENTION OF JURISDICTION

23. The United States District Court for the Western District of Washington at Seattle shall retain jurisdiction over this matter for the duration of this Consent Decree.

VIII. DURATION AND TERMINATION

24. This Consent Decree shall be in effect for two (2) years from the date of entry of the Decree. If the EEOC petitions the Court for breach of this Consent Decree, and the Court finds K1 Speed to be in violation of the terms of the Consent Decree, the Court may extend the duration of this Consent Decree.

Dated this 28th day of July, 2009.

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## NOTICE TO EMPLOYEES

This notice has been posted pursuant to the settlement of a lawsuit: EEOC v. K1 Speed, Inc., Western District of Washington Case No. C09-0148. In accordance with the Consent Decree, K1 Speed will provide anti-discrimination training to all employees; provide K1 Speed's EEO policy to all employees; implement policies to ensure supervisor and manager accountability with regard to anti-discrimination practices; and report to the EEOC all complaints of disability discrimination or retaliation it receives from its employees for the next four years.

Federal law prohibits an employer from discriminating against any individual based on the individual's disability with respect to hiring, promotion, demotion, terms and conditions of employment and/or termination. Federal law also prohibits an employer from allowing any employee to be harassed because of age, race, color, sex, religion and national origin. It is also unlawful for an employer to retaliate against any individual because he or she complains of discrimination or harassment, cooperates with the investigation of a discrimination or harassment charge by K1 Speed or a government agency, participates as a witness or potential witness in any investigation or legal proceeding or otherwise exercises his or her rights under the law.

Any employee who is found to have retaliated against any other employee because such employee participated in this lawsuit will be subject to substantial discipline, up to and including immediate discharge.

Should you have any complaints of discrimination or retaliation you should contact \_\_\_\_\_ at \_\_\_\_\_.

Employees also have the right to bring complaints of discrimination or harassment to the U.S. Equal Employment Opportunity Commission, Seattle Field Office at 909 1<sup>st</sup> Avenue, Suite 400, Seattle, WA 98104-1061, 206.220.6883, 1800.669.4000.

This notice shall remain prominently posted at all K1 Speed facilities until \_\_\_\_\_. This Official Notice shall not be altered, defaced, covered or obstructed by any other material.